

**BEFORE RAJENDER KUMAR, ADJUDICATING OFFICER, HARYANA REAL ESTATE REGULATORY AUTHORITY, GURUGRAM**

**Complaint No.1607-2023**

**Date of Decision: 28.07.2025**

**Arun Kumar Singh, D-92, Seema Apartments, Plot no. 7, Sector-11, Dwarka, New Delhi-110075.**

**Complainant**

**Versus**

1. **Identity Buildtech Pvt. Ltd, 110, Indrapraksh, 21, Barakhamba Road, New Delhi-110001.**
2. **Ansal Housing and Construction Limited, 110, Indrapraksh, 21, Barakhamba Road, New Delhi-110001.**

**Respondents**

**APPEARANCE**

**For Complainant:  
For Respondents:**

**Ms. Daggar Malhotra, Advocate  
None for respondents.**

**ORDER**

1. This is a complaint, filed by Arun Kumar Singh (allottee), under section 2(zk) of the Real Estate (Regulation and Development), Act 2016 (in brief Act of 2016) against M/s. Identity Buildtech Pvt Ltd and Ansal Housing and Construction Limited (promoters).

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2. According to complainant, both of respondents are companies, duly incorporated under the provisions of The Companies Act, 1956. The respondent no.1 is a wholly owned subsidiary of respondent no.2. The respondents are engaged in the business of real estate and after developing, they sell units in the form of commercial spaces, office space, shops, flats, apartments etc. to the purchasers. The project concerned has been registered in the name of respondent no.1 with the Real Estate Regulatory Authority, Gurugram (in brief The Authority).

3. That he (complainant) booked a residential unit in the respondents' project namely "*Ansals Highland Park*" located in Sector-103, Gurugram vide application dated 01.06.2012. He made payment of Rs.7,00,000/- towards the booking amount. He entered into an Apartment Buyers' Agreement (ABA) dated 22.03.2013 with respondent no.2. He (complainant) again paid a lump sum of Rs.13,17,874.98 towards the payment of the unit purchased, which was duly acknowledged by the respondents.

4. That thereafter, the respondents issued an allotment letter dated 15.02.2014 in his name thereby confirming the allotment of Residential Apartment/Unit No. GLSGW-504, Glasgow Tower having 1940 sq. ft super area for a total sale price of Rs.99,47,233.20.

  
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5. That the respondents raised demands for payment as per the schedule of payment, which was timely paid by the complainant. He (complainant) has paid total amount of Rs. 86,57,493,18. The remaining balance amount was to be paid at the time, when possession of the unit was to be handed over by the respondents.

6. That as per clause 31 of the ABA, respondent No.2 was to hand over the possession of the complete unit within 48 months plus 6 months grace period from the date of execution of the ABA. The due date of possession fell on 22.09.2017. The respondents did not hand over the possession of the unit within the stipulated period despite of receiving the amount.

7. That on account of delay in the handing over of the possession to the complainant, he (complainant) has suffered a huge loss on his investment. The complainant has invested a huge amount in the aforesaid project of the respondents in the hope that the respondents would complete the project in time and hand over the possession to him (complainant) but the respondents did not hand over by the due date of possession.

8. That as per clause 37 of the Apartment Buyers' Agreement, in the event of delay in the delivery of possession on the part of the respondents, the latter were liable to pay a penalty of Rs. 5/- per square

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feet per month on the super area. But the respondents were never ready and willing to compensate the complainant.

9. That the respondents have played a fraud upon him (complainant) and have cheated him fraudulently and dishonestly with a false promise to deliver the possession of the said plot in time.

10. That on account of all the above facts and grounds, the complainant was compelled to file a complaint bearing No. 1612/2018 before the Hon'ble Haryana Real Estate Regulatory Authority at Gurugram against the respondents seeking refund of the amounts paid by the complainant along with interest. The same has been decided in favour of the complainant vide final order/ judgment dated 23.11.2022.

11. That as per section 18 of the Real Estate (Regulation and Development) Act, 2016, the promoter is liable to pay compensation to the allottees of an apartment, building or project for a delay or failure in handing over of such possession as per the terms of the agreement of the sale.

12. Citing facts as mentioned above, the complainant prayed for following relief: -

1. To award compensation to the tune of Rs. 10,00,000/- in favour of the complainant and against the respondent.
2. To pass such other order/reliefs as it may deem fit.



13. The respondents did not contest the claim despite service of notice and they were proceeded ex parte vide order dated 29.02.2014.

14. Complainant filed affidavit in support of his claim. I have heard learned counsel for complainant and perused the record.

15. Complaint No. 1612/2018 filed by present complainant seeking refund of amount has already been allowed by the Authority vide order dated 23.11.2022. Complainant has been allowed refund of entire amount paid by the same (complainant) i.e. Rs.86,57,493.18 along with interest at rate 10.35% per annum from the date of each payment till the date of refund of the deposited amount.

16. As per Section 18 (1) of Act of 2016, if promoter fails to complete or unable to give possession of an apartment, plot or building, -

(a) in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein, (b)-----, he shall be liable on demand to the allottees, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of that apartment, plot or building, as the case may be, with interest at such rate as may be prescribed in this behalf **including compensation, in the manner as provided under this Act.**

17. It is clear from this provision that in case promoter fails to complete or unable to give possession of an apartment, plot or building in accordance with the terms of the agreement for sale he is liable to return



the amount received by him from the allottee, in case allottee resist to withdraw from the project. Apart from refund of the amount received by him. The promoter is liable for compensation also, as provided under this act.

18. As per Section 72 of the Act of 2016, following factors are to be taken into account by the Adjudicating Officer, in determining amount of compensation: -

- (a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;*
- (b) the amount of loss caused as a result of the default;*
- (c) the repetitive nature of the default;*
- (d) such other factors which the adjudicating officer considers necessary to the case in furtherance of justice.*

19. According to complainant, as per ABA, the respondents were obliged to hand over possession till 22.09.2017, but failed to hand over possession. The authority in its order directed refund of the amount, finding fault in the respondent in handing over possession. Said order is dated 23.11.2022. In this way, respondent is liable to compensate the complainant as per law.

20. As per copy of ABA put on file, total sale consideration was Rs. 91,73,833.20/-. According to complainant, out of said Sale consideration he had paid Rs. 86,57,493.18/-. Remaining amount was to be paid at the



time of handing over possession. In this way, complainant has paid most of amount of sale consideration. He was deprived of his right to get possession of unit. On the other hand, respondents used said money for their gain, getting unfair advantage consequently causing loss to the complainant. The complainant has prayed for a sum of Rs. 10 lakh as compensation in this regard. Complainant did not explain as how he quantified the amount of compensation as Rs. 10,000,00/-. According to complainant, he paid Rs. 86,57,493.18/- whenever demand was raised by the respondent.

21. The complainant was allotted a 3BHK unit measuring 1940 sq. ft. at rate 4659.28/-. A judicial notice can be taken that prices of Real Estate i.e. residential house, commercial units etc. have been increased considerably after unit in question was booked by the complainant i.e. on 01.06.2012. As per 'AI Overview' residential property in Gurugram climbed from approximately Rs. 6150 per sq. ft. in early 2020 to 11,300 sq. ft. by March 2025. Although, this is not a conclusive evidence about rise in prices but taking at lower and it can be presumed that prices would have gone up by 30%, during relevant period.

22. In this way, Rs. 10 lakh as claimed by the complainant as compensation is not an excessive amount. Considering all this,

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complainant is allowed a sum of Rs. 10 lakh as compensation in this regard.

23. Apart from said amount, complainant is granted a sum of of Rs. 1 lakh for mental harassment and agony, suffered by him due to act of respondent. Respondent is directed to pay this amount alongwith interest at Rate 9.5% per annum from date of this order, till realization of amount.

24. File be consigned to record room.

Announced in open court today i.e. on 28.07.2025.

  
(Rajender Kumar)  
Adjudicating Officer,  
Haryana Real Estate Regulatory  
Authority, Gurugram.